

CITY OF LAKE FOREST

RESOLUTION NO. 01-21

RECEIVED
DEC 17 2001

Illinois Commerce Commission
RAIL SAFETY SECTION

A RESOLUTION APPROVING
PUBLIC ROAD IMPROVEMENT AGREEMENTS FOR THE
OLD ELM ROAD-UNION PACIFIC RIGHT-OF-WAY INTERSECTION
AND THE WESTLEIGH ROAD-UNION PACIFIC RIGHT-OF-WAY INTERSECTION

WHEREAS, pursuant to a State of Illinois Commerce Commission ("**ICC**") Order dated February 15, 2000, the City of Lake Forest ("**City**") and Union Pacific Railroad ("**Union Pacific**") are required to construct, install, and maintain certain pedestrian safety improvements at (i) the intersection of Westleigh Road and the Union Pacific right-of-way (location identified as United States Department of Transportation #176821S, Milepost 27.97), and (ii) the intersection of Old Elm Road and the Union Pacific right-of-way (location identified as United States Department of Transportation #176822T, Milepost 26.85), (collectively, "**Improvements**"), a copy of which is attached as **Exhibit A** and, by this reference, made a part of this Resolution ("**Order**"); and

WHEREAS, in an Amendatory Order dated May 23, 2001, the ICC modified certain provisions of the Order regarding maintenance of the pedestrian safety improvements, a copy of which is attached as **Exhibit B** and, by this reference, made a part of this Resolution ("**Amendatory Order**"); and

WHEREAS, the City and Union Pacific desire to abide by the terms of the Order and Amendatory Order; and

WHEREAS, pursuant to the Order and Amendatory Order, the City and Union Pacific have negotiated two separate Public Road Improvement Agreements for the installation, construction, and maintenance of the Improvements, copies of which are attached as **Exhibits C and D** and, by this reference, made a part of this Resolution ("**Agreements**"); and

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WHEREAS, the City and Union Pacific have substantially agreed to all of the terms of the Agreements; and

WHEREAS, the Mayor and City Council of the City have determined that it is in the best interests of the City and its residents to approve the Agreements, subject to the conditions set forth in this Resolution;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE FOREST, COUNTY OF LAKE, STATE OF ILLINOIS, as follows:

SECTION 1. **Recitals.** The foregoing recitals are incorporated as if fully set forth in this Section 1.

SECTION 2. **Approval of the Agreements.** Upon the satisfaction of the conditions set forth in Section 3 of this Resolution, the Mayor and City Clerk are hereby authorized and directed to execute and attest, respectively, the Agreements in substantially the forms attached as Exhibits C and D.

SECTION 3. **Conditions.** Approval of the Agreements pursuant to Section 2 of this Resolution shall be, and is hereby, expressly subject to, and the Agreements shall not be effective until, each of the following conditions precedent are satisfied:

- A. The City and Union Pacific agree to modify the Agreements as necessary to be "fixed cost" agreements, which modification shall be acceptable in form and substance to the City Attorney.
- B. The City and Union Pacific agree to modify the Agreements to provide that the City and Union Pacific will cooperate and take all necessary actions to file petitions with the ICC to extend the period of time to complete the Improvements under the Agreements, Order, and Amendatory Order by no less than 180 days, which modification shall be acceptable in form and substance to the City Attorney.

SECTION 4. **Effective Date.** This resolution shall be in full force and effect upon its passage and approval in the manner provided by law.

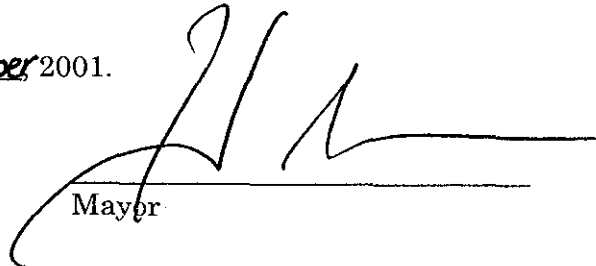
PASSED this 3rd day of December, 2001.

AYES: Henry, Lansing, Burns, Rummel, Mohr, Reynolds,
Cowhey,

NAYS: None.

ABSENT: MOSS.

APPROVED this 3rd day of December, 2001.



Mayor

ATTEST:

Cynthia A. Mayes

City Clerk

CHI1 #148666 v2

Exhibit A

Illinois Commerce Commission Order, Dated February 15, 2000

Exhibit B

Illinois Commerce Commission Amendatory Order, Dated May 23, 2001

Exhibit C

Westleigh Road (Not Amended) Public Road Improvement Agreement

Exhibit D

Old Elm Road (Not Amended) Public Road Improvement Agreement